



असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 34] नई दिल्ली, शनिवार, जून 23, 1979/आषाढ़ 2, 1901

No. 34] NEW DELHI, SATURDAY, JUNE 23, 1979/ASADHA 2, 1901

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 23rd June, 1979/Asadha 2, 1901 (Saka)

THE LAKSHADWEEP PROHIBITION REGULATION, 1979

No. 5 of 1979

Promulgated by the President in the Thirtieth Year of the Republic of India.

A Regulation to introduce and extend the prohibition of the manufacture, sale and consumption of intoxicating liquors and drugs in the Union territory of Lakshadweep.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

CHAPTER I

PRELIMINARY

1. (1) This Regulation may be called the Lakshadweep Prohibition Regulation, 1979.

(2) It extends to the whole of the Union territory of Lakshadweep.

(3) (a) This section and sections 2 and 6 shall come into force at once.

(b) The remaining provisions of this Regulation shall come into force on such date as the Administrator may, by notification, appoint;

Short title, extent and commencement.

Provided that different dates may be appointed for different local areas of the Union territory of Lakshadweep and any reference in any such provision to the commencement of this Regulation shall be construed, in relation to any local area, as a reference to the coming into force of that provision in that area.

Defini-
tions.

2. In this Regulation, unless the context otherwise requires,—

(a) “Administrator” means the Administrator of Lakshadweep appointed by the President under article 239 of the Constitution;

(b) “bottle” means to transfer liquor from a cask or other vessel to a bottle, jar, flask or pot or similar receptacle for the purpose of sale, whether any process of manufacture be employed or not, and includes rebottling;

(c) “buy” or “buying” includes any receipt including gift;

(d) “Collector” means the Collector of Lakshadweep or any other officer authorised by the Administrator to exercise all or any of the powers or to perform all or any of the duties of a Collector under this Regulation;

(e) “cultivation” includes the tending or protecting of a plant during growth and does not necessarily imply raising it from seed;

(f) “export” means,—

(i) to take out of any local area wherein this Regulation is in force to any other local area in Lakshadweep wherein this Regulation is not in force; or

(ii) to take out of Lakshadweep to any State or any other Union territory;

(g) “import” means,—

(i) to bring into any local area wherein this Regulation is in force from any other local area in Lakshadweep wherein this Regulation is not in force; or

(ii) to bring into Lakshadweep from any State or any other Union territory;

(h) “intoxicating drug” means,—

(i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa* L.) including all forms known as *bhang*, *siddhi* or *ganja*;

(ii) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulation other than that necessary for packing and transport;

(iii) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug or any drink prepared therefrom; and

(iv) any other intoxicating or narcotic substance which the Administrator may, by notification, declare to be an intoxicating drug, such substance not being opium, cocoa leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930;

(i) “Lakshadweep” means the Union territory of Lakshadweep;

(j) "liquor" includes toddy, arrack, spirits of wine, denatured spirits, spirits, wine, beer and all liquid consisting of, or containing, alcohol.

Explanation.—For the purposes of this clause and clause (s), "denatured" means subjected to a process specified by the Administrator, by notification, for the purpose of rendering unfit for human consumption;

(k) "manufacture" includes every process, whether natural or artificial, by which any fermented, spirituous, or intoxicating liquor or intoxicating drug is produced, prepared or blended, and also re-distillation and every process for the rectification of liquor;

(l) "neera", or "sweet toddy" (otherwise known as meera) or "padani" means juice drawn from a coconut, palmyra, date or any other kind of palm tree into receptacles treated so as to prevent any fermentation and not fermented;

(m) "notification" means a notification published in the Official Gazette of Lakshadweep;

(n) "place" includes also a house, shed, enclosure, building, shop, tent, boat, ship and any other type of vessel;

(o) "police station" includes any place which the Administrator may, by notification, declare to be a police station for the purposes of this Regulation;

(p) "prohibition officer" means a Collector or any officer lawfully appointed by the Administrator to perform any function or discharge any duty under this Regulation;

(q) "rectification" includes every process whereby spirits are purified or are coloured or flavoured by mixing any material therewith;

(r) "sale" or "selling" includes any transfer including gift;

(s) "spirits" means any alcohol and includes any liquor containing alcohol and obtained by distillation, whether such liquor is denatured or not;

(t) "toddy" means the fermented or unfermented juice drawn from a coconut, palmyra, date or any other kind of palm tree but does not include neera, sweet toddy (otherwise known as meera) or padani;

(u) "transport" means to move from one place to another within any local area wherein this Regulation is in force.

CHAPTER II

PROHIBITIONS AND PENALTIES

3. Whoever—

(a) imports, exports, transports or possesses liquor or any intoxicating drug; or

(b) manufactures liquor or any intoxicating drug; or

(c) except in accordance with the rules made under this Regulation in that behalf, cultivates the hemp plant (*Cannabis sativa*); or collects any portion of such plant from which an intoxicating drug can be manufactured; or

Prohibition of the manufacture of, traffic in, and consumption of, liquor and intoxicating drugs.

(d) except for the purpose of neera, sweet toddy (otherwise known as meera) or padani, taps or permits or suffers to be tapped, any coconut, palmyra, date or any other kind of palm tree belonging to him or in his possession; or

(e) except for the purpose of neera, sweet toddy (otherwise known as meera) or padani, draws or permits or suffers to be drawn, juice from any coconut, palmyra, date or any other kind of palm tree belonging to him or in his possession; or

(f) constructs or works any distillery or brewery; or

(g) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the tapping of toddy or the manufacture of liquor or any intoxicating drug, or keeps or has in his possession any materials which have undergone any process towards the manufacture of liquor or any intoxicating drug or from which any liquor or intoxicating drug has been manufactured; or

(h) bottles any liquor for purposes of sale; or

(i) sells liquor or any intoxicating drug; or

(j) consumes or buys liquor or any intoxicating drug; or

(k) knowingly expends or applies money in direct furtherance or support of the commission of any of the acts specified in clauses (a) to (j); or

(l) allows any of the acts aforesaid upon premises in his immediate possession,

shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both:

Provided that nothing contained in this section shall apply to any act done under and in accordance with the provisions of this Regulation or of any rule, notification, order, licence or permit issued thereunder.

Punish-
ment for
being
found
in a
state of
intoxi-
cation.

4. Whoever is found in a state of intoxication in any public place shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Punish-
ment for
rendering
or attempt
ing to
render
denatured
spirits fit
for human
consump-
tion.

5. Whoever renders or attempts to render fit for human consumption any spirit, whether manufactured in India or not, which has been denatured or any preparation containing such spirit or has, in his possession, any spirit or preparation containing spirit in respect of which he knows or has reason to believe that any such attempt has been made shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

Explanation.—For the purposes of this section, it shall be presumed, until the contrary is proved, that any spirit or preparation containing spirit which is proved on chemical analysis to contain any quantity of any of the denaturants as may be laid down in the rules made under this Regulation is, or has been, derived from, or contains, denatured spirit.

6. Whoever prints or publishes in any newspaper, book, leaflet, booklet or any other single or periodical publication or otherwise displays or distributes any advertisement or other matter soliciting the use of, or offering, any liquor or intoxicating drug other than liquor or drugs exempted under section 16, shall be punished with fine which may extend to two thousand rupees:

Prohibition of advertisement.

Provided that this section shall not apply to medical journals and literature intended for medical profession.

7. When two or more persons agree—

(a) to commit or cause to be committed any offence under section 3 or section 5; or

Punishment for conspiracy.

(b) to evade or nullify the provisions of this Regulation in any local area of Lakshadweep where it is in force,

each of such persons shall, notwithstanding that no act except the agreement was done by any of the parties thereto in pursuance thereof or that the agreement was made or the operations thereunder took place in a local area where this Regulation is not in force, be punished with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both.

8. Any officer exercising powers under this Regulation who—

(a) without reasonable ground of suspicion, enters or searches or causes to be searched, any closed place; or

Punishment for vexatious search or arrest, etc.

(b) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Regulation; or

(c) vexatiously and unnecessarily detains, searches or arrests any person; or

(d) maliciously and falsely lays information leading to a search, seizure, detention or arrest; or

(e) in any other way maliciously exceeds his lawful powers, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

9. Any officer exercising powers under this Regulation who—

(a) unlawfully releases or abets the escape of any person arrested under this Regulation, or, abets the commission of any offence against this Regulation; or

Punishment for abetment of escape of person arrested, etc.

(b) acts in a manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Regulation may be evaded or contravened,

and any other officer of the Administration of Lakshadweep or of a local body who abets the commission of any offence against this Regulation, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Punish-
ment for
abetment
of offence
under
Regula-
tion in
local
area
wherein
Regula-
tion is not
in force.

10. Where any offence under this Regulation is committed in any local area of Lakshadweep wherein this Regulation is in force, whoever commits, or attempts to commit, or abets the commission of, any of the acts making up the offence shall be liable to be punished therefor, whether such commission, attempt or abetment takes place within or outside such local area.

Punish-
ment for
offences
not other-
wise pro-
vided for.

11. Whoever is guilty of any wilful act or intentional omission in contravention of any of the provisions of this Regulation or of any rule, notification or order made thereunder and not otherwise provided for in this Regulation, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Punish-
ment for
unautho-
rised use
of permit
or licence.

12. Whoever not being a lawful holder of a permit or licence issued under section 19 uses it, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Things
liable to
confisca-
tion.

13. In any case in which an offence has been committed against this Regulation, the liquor, drug, material, still, utensil, implement or apparatus in respect, or by means, of which the offence has been committed, shall be liable to confiscation along with the receptacles, packages, coverings, animals, boats, vessels, carts or other vehicles used to hold or carry the same.

Confisca-
tion how
ordered.

14. (1) When the offender is convicted or when the person charged with an offence against this Regulation is acquitted, but the court decides that anything is liable to confiscation, the confiscation may be ordered by the court.

(2) Where during the trial of a case for an offence against this Regulation, the court decides that anything is liable to confiscation under sub-section (1), the court may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order the confiscation:

Provided that no animal, boat, vessel, cart or other vehicle shall be confiscated, if the owner thereof satisfies the court that he had exercised due care in preventing the commission of the offence.

(3) When an offence against this Regulation has been committed, but the offender is not known, or cannot be found, or when anything liable to confiscation under this Regulation, and not in the possession of any person, cannot be satisfactorily accounted for, the case shall be inquired into and determined by the prohibition officer or by any other officer authorised by the Administrator in that behalf, who may order such confiscation:

Provided that no such order shall be made until the expiration of fifteen days from the date of seizing the things intended to be confiscated or without hearing the persons, if any, claiming any right thereto, and the evidence, if any, which they produce in support of their claims.

2 of 1974. 15. All offences under this Regulation shall be cognizable and the provisions of the Code of Criminal Procedure, 1973, with respect to cognizable offences shall apply to them.

Offences under Regulation to be cognizable.

CHAPTER III

EXEMPTIONS, PERMITS AND LICENCES

16. (1) The Administrator may, by notification and subject to such conditions as he thinks fit, exempt any specified liquor or intoxicating drug or article containing such liquor or drug from the observance of all or any of the provisions of this Regulation on the ground that such liquor, drug or article is required for a medicinal, scientific, industrial or such like purpose.

Power to notify exemptions.

(2) When issuing a notification under sub-section (1), the Administrator shall have power to provide that a breach of any of the conditions subject to which the exemption is notified shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

17. The Administrator may, by notification, direct that the provisions of this Regulation shall not apply to,—

Exemption of foreign tourists and permit or licence holders.

(a) any *bona fide* foreign tourist visiting and halting or holidaying in any of the local areas of Lakshadweep wherein this Regulation is in force if any liquor, or intoxicating drug or article containing such liquor or drug is intended for the *bona fide* personal use of such tourist; or

(b) any person to whom a permit or licence is issued under section 19.

18. (1) The Administrator may, by notification, and subject to such conditions as he thinks fit, exempt members of the armed forces of the Union or of any other armed forces raised or maintained by the Union or attached to or operating with any of its armed forces, and the members of the medical or other staff attached to any of the armed forces aforesaid, from all or any of the provisions of this Regulation.

Exemption of members of armed forces, etc.

(2) When issuing a notification under sub-section (1), the Administrator shall have power to provide that a breach of any of the conditions subject to which the exemption is notified shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

19. (1) The Administrator or any officer empowered by him in this behalf may issue—

Permits and licences.

(a) a permit authorising any person to consume and possess for personal consumption any liquor or intoxicating drug;

(b) a licence to any person to possess liquor and issue it to persons or institutions who hold permits or licences under this Regulation.

(2) Every permit or licence shall—

(a) be issued on payment of such fees, if any, for such period and subject to such restrictions and limitations and on such conditions; and

(b) be in such form and contain such particulars,

as may be laid down in the rules made under this Regulation.

Power to
cancel
or sus-
pend per-
mit or
licence.

20. (1) The Administrator or any officer empowered by him in this behalf may cancel or suspend any permit or licence referred to in section 19,—

(a) if any fee payable by the holder thereof be not duly paid; or

(b) in the event of any breach by the holder of such permit or licence or by his servants or by anyone acting with his express or implied permission on his behalf, of any of the terms or conditions of such permit or licence; or

(c) if the holder thereof is convicted of any offence against this Regulation or of any cognizable offence; or

(d) if the conditions of such permit or licence provide for its cancellation or suspension at will; or

(e) if the purpose for which the permit or licence is issued ceases to exist.

(2) Before any permit or licence is cancelled or suspended under sub-section (1), the holder of the permit or licence shall be given an opportunity to state his objections within a reasonable time, not ordinarily exceeding fourteen days, and any representation made by him in this behalf shall be duly taken into consideration before final orders are passed.

CHAPTER IV

POWERS, DUTIES AND PROCEDURE OF OFFICERS, ETC.

Issue of
search
warrants.

21. (1) If any Magistrate or prohibition officer upon information obtained and after such inquiry as he thinks necessary, has reason to believe that an offence under section 3 has been committed, he may issue a warrant for the search for any liquor, intoxicating drug, material, still, utensil, implement or apparatus in respect of which the alleged offence has been committed.

(2) The search warrant shall be handed over to the station house officer attached to the police station nearest to the place where the offence is said to have been committed and he shall, with due expedition, execute such warrant by carrying out the search and detain and arrest any person found in the place searched if he has reason to believe that such person is guilty of any offence under this Regulation:

Provided that every person arrested under this section shall be released on bail by the person arresting if sufficient bail be tendered for his appearance either before a Magistrate or before a police officer or before a prohibition officer, as the case may be.

(3) Before issuing a warrant under sub-section (1), the Magistrate or prohibition officer, as the case may be, shall examine the informant on oath and the examination shall be reduced in writing in a summary manner and be signed by the informant and also by such Magistrate or prohibition officer,

22. Whenever any Magistrate or any prohibition officer or police officer not below the rank of a sub-inspector of police has reason to believe that an offence under section 3 has been committed and that the delay occasioned by obtaining a search warrant under section 21 will prevent the execution thereof, he may, after recording his reasons and the grounds of his belief, at any time by day or by night, enter and search any place and may seize or order seizure of anything found therein, which he has reason to believe to be liable to confiscation under this Regulation, and may detain and search and, if he thinks proper, arrest any person found in the place searched if he has reason to believe such person to be guilty of any offence under this Regulation:

Powers of entry and search without warrant.

Provided that every person arrested under this section shall be released on bail by the person arresting if sufficient bail be tendered for his appearance, either before a Magistrate or before a police officer or before a prohibition officer, as the case may be.

23. A Magistrate or any prohibition officer may enter and inspect at any time, by day or by night, any place in which it is reasonably suspected—

Powers of entry and inspection.

(a) that any toddy is drawn, or the manufacture of any other liquor or of any intoxicating drug is carried on; or

(b) that any liquor or intoxicating drug is kept for sale or stored; or

(c) that an offence under section 5 has been, or is being, committed,

and may examine, test, measure or weigh any material, still, utensil, implement, apparatus, liquor or intoxicating drug found in such place.

24. If any officer empowered to make an entry under section 21, section 22 or section 23 cannot otherwise make such entry, it shall be lawful for him to break open any outer or inner door or window and to remove any other obstacles to his entry into any such place.

Power to use force in case of resistance to entry.

25. (1) Any person, who may be accused or reasonably suspected of committing an offence against this Regulation, and who on demand made by a Magistrate or any prohibition officer or any police officer not below the rank of a sub-inspector of police refuses to give his name and residence or gives a name or residence which such officer has reason to believe to be false, may be arrested by such officer in order that his name and residence may be ascertained.

Arrest of person refusing to give name or giving false name.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond with or without sureties, to appear before a Magistrate having jurisdiction, when so required:

Provided that if such person is not resident in India, the bond shall be secured, by a surety or sureties residing in India.

(3) If the true name and residence of such person is not ascertained within twenty-four hours from the time of the arrest, or if he fails to execute the bond, or if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

26. All searches under the provisions of this Regulation shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973.

Searches how to be made.

Duty of officials of all departments to assist.

27. Officials of all departments under the Administrator shall be legally bound to assist the prohibition officer or any police officer in carrying out the provisions of this Regulation.

Power to issue summons and require production of documents.

28. Any police officer or prohibition officer holding an inquiry under this Regulation may summon any person to appear before himself to give evidence in such inquiry or to produce document relevant to the inquiry which may be in his possession, custody or control.

Confiscation of bond and recovery of penalties.

29. When by reason of default of appearance of a person bailed to appear before a police officer or prohibition officer, such officer is of opinion that proceedings should be had to compel payment of the penalty or penalties mentioned in the bond of the person bailed or of the surety or sureties, he shall forward the bond to the Magistrate having jurisdiction to inquire into or try the offence of which the person bailed was accused, and the Magistrate shall proceed to enforce the payment of the penalty or penalties in the manner provided for by the Code of Criminal Procedure, 1973, for the recovery of penalties in the like case of default of appearance by a person bailed to appear before his own court.

2 of 1974.

Courts to take judicial notice of appointments.

30. All courts shall take judicial notice of all notifications and orders conferring powers, imposing duties and making appointments under this Regulation.

Action against Government, etc.

31. No action shall lie against the Central Government or against the Administrator or the Collector or against any prohibition officer or police officer or other officer for damages in any civil court for any act *bona fide* done or ordered to be done in pursuance of this Regulation.

CHAPTER V

MISCELLANEOUS

Power to make rules.

32. The Administrator may, by notification, make rules to carry out the provisions of this Regulation.

N. SANJIVA REDDY,
President.

R. V. S. PERI SASTRI,
Secy. to the Govt. of India.